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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

I.T.R. No. 398 of 1995
Date of decision: 17.8.2007

The Commissioner of Income-Tax, Patiala

...Petitioner

Versus

M/S Rieta Biscuits Co. Pvt. Ltd., Patiala

...Respondent

CORAM: HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr. Yogesh Putney, Advocate for the Petitioner

Mr. Akshay Bhan, Advocate for the respondent.

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RAJESH BINDAL,J.

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh (for short "the Tribunal), arising out of order passed in I.T.A.No. 638/Chandi/89 in respect of the assessment year 1986-87 :-

> Whether on the facts and in the circumstances of the case, the Tribunal was right in law in upholding the order of the CIT(A) allowing investment allowance to the assessee on new machinery when the plant and machinery were leased out by the assessee to another company and the assessee was not carrying on any production and was deriving only lease income?

Detailed facts are not required to be mentioned as it is noticed from the order of the Tribunal that while deciding the appeal, the order passed by it for the year 1983-84 was referred and relied upon. It is categorically noticed in the order that there is no change in the

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circumstances as existed in the year 1983-84 if compared with the assessment year in question.

We have considered the issue in case of the assessee for the assessment year 1983-84 vide our separate judgment delivered today in ITR No.35 of 1991 and have answered the same against the revenue and in favour of the assessee.

For the reasons stated therein, the question referred is answered against the revenue and in favour of the assessee.

The reference is disposed of accordingly.

(Rajesh Bindal)
Judge

August 17, 2007 **(M.M.Kumar)**
Pka **Judge**